UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,544	09/22/2003	Matthew Bells	555255012571	9931

			EXAMINER
7590	07/05/2005		LAM, DUNG LE

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ART UNIT	PAPER NUMBER
2687	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/667,544	BELLS ET AL.
	Examiner	Art Unit	
	Dung Lam	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 September 2003_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-24_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☒ Claim(s) _1-24_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _22 September 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _1/13/03_.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1.   The references listed in the Information Disclosure Statement submitted on April

22, 2004 have been considered by the examiner (see attached PTO-1449 form).

Claim Objections

2.   Claims 1, 2 and 13 are objected to because of the following informalities:

Claim 1, line 8, it is not clear as to who is determining the presence of the

mobile.

Claim 2, line 16 the words "not receptive" are not very clear. In addition,

usage of negative language such as "not" is not recommended.

Claim 13, lines 15 through 17 are not very clear. For examination

purpose, the examiner interpret the claims to read as "receiving presence

information about other messaging clients only when the receiving client is

available".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims **1, 6, 11, 19 and 24** are rejected under 35 U.S.C. 102(b) as being anticipated by **Davies** (WO 01/45368).

5. Regarding **claims 1,** Davies teaches a method of instant messaging, comprising the steps of: providing a plurality of messaging clients capable of transmitting instant messages to one another (Col. 3 lines 5-7); each of the plurality of messaging clients configured to share presence information with one another via a network (Col. 3 lines 3-4); and for each of the plurality of messaging clients, determining whether the messaging client is in a state in which it is receptive to receiving presence information from the other messaging clients, and if so, then receiving presence information for each of the other messaging clients via the network (by identifying when others are online it is possible to send an instant message to the other online individuals, Col. 3 lines 5-7).

6. Regarding **claim 6**, Davis teaches all the limitations as in 1 (see claim 1 above). Davis further teaches the step of: each of the plurality of messaging clients having a buddy list of other messaging clients with which the messaging client is interested in communicating with (Col. 4, lines 21-25); when the messaging client is in a state in which it is receptive to receiving presence

information, then obtaining presence information for each of the other messaging clients on the buddy list (Col. 4, lines 25-28).

7.   Regarding **claim 11**, Davis teaches all the limitations as in 1 (see claim 1 above.) Davis further teaches the steps of: transmitting instant messages between two of the messaging clients having presence information regarding one another (Col. 3, lines 5-7).

8.   Regarding **claim 14, 19 and 24,** they are system claims corresponding to the method claims 1, 6 and 11 respectively. Therefore, they are rejected for the same reasons as claims 1, 6 and 11 respectively (see claims 1, 6 and 11 above).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15,16,23

10.   Claims 2, 3, 10, 12 and 13 are rejected under 35 U.S.C. 103(b) as being unpatentable over *Davies* (WO 01/45368) in view of **Agrawal** (US Pub. No. 2002/0083127).

11.   Regarding **claim 2**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, he fails to explicitly teach a step in which each of the

plurality of messaging clients, setting a communication timer to a predetermined

value that, when expired, will put the messaging client into an inherent unknown

state in which it is not receptive to receiving presence information from each of

the other messaging clients. In an analogous art, Agrawal teaches a step in

which a communication timer is set to a predetermined value that, when expired,

will put the messaging client into a "present and inactive" state or "absent" which

is similar to unknown state (Col. 5, para. 0052). If the IM server determines that

the target buddy is not available, the message is dropped (col. 1, para. 0005).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time of the invention to combine Davis's teaching with Agrawal's to not send any

presence update to an idle or unknown status user since this would save some

radio resource.

12.   Regarding **claim 3**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, he fails to explicitly teach a step in which: for each of

the plurality of messaging clients, detecting a trigger signal indicating that the

messaging client should be put into an unknown state in which it is not receptive

to receiving presence information from each of the other messaging clients. In

an analogous art, Agrawal teaches a step in which a communication timer is set

to a predetermined value that, after a number of times or re-send and a

predetermined timer expired, the IM proxy drops the message and indicate to the

IM server that the mobile is unavailable (Col. 5, para. 0052).   Therefore, it would

have been obvious for one of ordinary skill in the art at the time of the invention

to combine Davis's teaching with Agrawal's to not send any presence update to

an idle or unknown status user since this results in some resource reservation.

13.   Regarding **claim 10**, Davis teaches all the limitations as in claim 9 (see

claim 9 above). However, he fails to teach that the proxy server propagating

presence information to each of the plurality of messaging clients unless the

presence information database indicates that a particular messaging client is in a

state indicating that it is not receptive to receiving presence information. In an

analogous art, Agrawal teaches a presence server (Figure 11) which inherently

has a presence information database storing current presence information for

each of the plurality of messaging clients. He further teaches that presence data

obtained from presence server to determine if data should be delivered to a user

or if delivery should be cancelled due to lack of user presence (paragraph 0051).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time of the invention to combine Davis's teaching with Agrawal's to not send any

presence update to an idle or unknown status user since this results in some

resource reservation.

14.   Regarding **claim 12**, Davis and Agrawal teach all the limitations as in 3

(see claim 3 above.) Davis further teaches the steps of the trigger signal is

generated when an instant messaging application is turned off (alerting

messages are sent when members of the list of friends sign off the ICQ system, Col. 4, lines 25-27). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine Davis's teaching with Agrawal's to not send any presence update to an off-line user thus minimizing resource usage.

15.   Regarding **claim 13**, Davis teaches all the limitations as in claim 1 (see claim 1 above). However, he fails to teach that determining at least one of the messaging clients is no longer capable of communicating via the network; and not providing presence information for the other messaging clients to the at least one of the messaging clients via the network until it is determined that the at least one of the messaging clients is capable of communicating via the network. In an analogous art, Agrawal teaches that presence data obtained from presence server can be used to determine if data should be delivered to a user or if delivery should be cancelled due to lack of user presence (paragraph 0051). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine Davis's teaching with Agrawal's to not send any presence update to an idle or unknown status user since this results in saving some radio resource.

16.   Regarding **claim 15,16,23** they are system claims corresponding to the method claims 2,3,10 respectively. Therefore, it is rejected for the same reasons as claims 2,3,10 respectively (see claims 2,3,10 above).

17.   Claims **4 and 17** are rejected under 35 U.S.C. 103(b) as being

unpatentable over *Davies* (WO 01/45368) in view of **Mathis** (US publication No.

2003/0083046).

18.   Regarding **claim 4**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, he fails to explicitly teach a step in which transmitting

presence information directly from each of the plurality of messaging clients to

the other messaging clients without using an intermediate server. In an

analogous art, Mathis teaches that the presence updates are directly sent to

other client devices rather than the server. Therefore, it would have been

obvious for one of ordinary skill in the art at the time of the invention to combine

Davis's teaching with Mathis to send the presence update directly to other

clients to allow the presence to be updated faster instead of going through more

intermediate points.

19.   Regarding **claim 17,** it is a system claim corresponding to the method

claim 4. Therefore, it is rejected for the same reasons as claim 4 (see claim 4

above).

18,31,32

20.   Claims **5, 8, 9** are rejected under 35 U.S.C. 103(b) as being unpatentable

over *Davies* (WO 01/45368) in view of **Dorenbosch et al** (US publication No.

2002/0173308).

21.   Regarding **claim 5**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, he fails to explicitly teach a step in which the presence

is sent to an intermediate server that determines whether to propagate presence

of the data stored to other clients or not. In an analogous art, Dorenbosch

teaches a step of transmitting presence information from each of the plurality of

messaging clients to an intermediate server (IM proxy 24) system and storing the

presence information in a data stored t the intermediate server (IM proxy is

capable of maintaining a mobile subscriber's availability status, paragraph 0030);·

the intermediate server system processing the presence information in the data

store to determine whether or not to propagate presence information for the

plurality of messaging clients to each of the individual messaging clients

represented by the presence information in the data store (if after a number of

failed retries, the proxy drops the message, paragraph 0029). Therefore, it would

have been obvious for one of ordinary skill in the art at the time of the invention

to combine Davis's teaching with Dorenbosch's to maximize radio resource by

first checking the presence of the other clients before using up the resource in

the fruitless attempt of sending messages to an unavailable user.

22.   Regarding **claim 8**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, he fails to teach the presence information is

communicated between the pluralities of messaging clients via a proxy server

coupled to the network. In analogous art, Dorenbosch teaches the plurality of

messaging clients (buddy) via a proxy server (IM proxy) coupled to the network

(Figure 8). It is known in the art that proxy server can function as a server either

to provide security or sometimes to caching frequently used contents and

distribute contents to users locally without having to retrieve data remotely.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention was made to have the presence proxy server to reduce

bandwidth usage and at the same time increases security.

23.   Regarding **claim 9**, Davis teaches all the limitations as in claim 8 (see

claim 8 above). However, he fails to teach that the proxy server maintains a

presence information database storing current presence information for each of

the plurality of messaging clients. In an analogous art, Dorenbosch teaches the

proxy server maintaining a presence information database storing current

presence information for each of the plurality of messaging clients (IM proxy is

capable of maintaining a mobile subscriber's availability status, paragraph 0030).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time of the invention to combine Davis's teaching with Dorenbosch's to store the

presence of users in order to find out if data transmission is plausible and thus

maximize radio resource.

24.   Regarding **claim 18, 21 and 22** they are system claims corresponding to

the method claims 5, 8 and 9 respectively. Therefore, it is rejected for the same

reasons as claims 5, 8 and 9 respectively (see claims 5, 8 and 9 above).

25.   Claims **7 and 20** are rejected under 35 U.S.C. 103(b) as being

unpatentable over *Davies* (WO 01/45368) in view of **Fok** (US publication No.

2002/0165000).

26.   Regarding **claim 7**, Davis teaches all the limitations as in claim 1 (see

claim 1 above). However, Davis fails to teach the network is a wide area

wireless network. In an analogous art, Fok teaches that the information maybe

connected to a wireless communication protocol and a WAN (col. 2, paragraph

24). Therefore, it would have been obvious to a person of ordinary skill in the art

at the time of the invention was made to combine Davis's teaching of instant

messaging into the wireless WAN environment as taught by Fok to provide a

more convenient form of communication for mobile users.

27.   Regarding **claim 20,** it is a system claim corresponding to the method

claim 7. Therefore, it is rejected for the same reasons as claim 7 (see claim 7

above).

Conclusion

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Dung Lam whose telephone number is (571)

272-6497. The examiner can normally be reached on M - F 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-6497.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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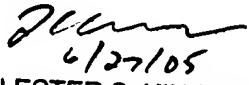
6/27/2005

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PRIMARY EXAMINER